

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 17585 of 2005

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WEDNESDAY, THE TENTH DAY OF AUGUST
TWO THOUSAND AND FIVE

Between:

M/s. Narasingi Roller Flour Mills, Narsingi Village, Rangareddy District, rep by
Managing Partner, Chimanlal Singhee

..... PETITIONER

AND

- 1 Government of Andhra Pradesh, rep by Principal Secretary to Government Industries & Commerce (IP) Department, A.P. Secretariat, Hyderabad
- 2 The Commissioner of Industries, Andhra Pradesh, Chirag Ali Lane, Abids, Hyderabad-500 001
- 3 The Chief General Manager, (Commercial), Central Power Distribution Company of A.P., Limited, Singareni Bhavan, Red Hills, Hyderabad
- 4 The Superintending Engineer, Operation, Central Power Distribution Company of A.P., Limited., R.R> Circle, Hyderabad
- 5 The Senior Accounts Officer, Operation, Central Power Distribution Company of A.P., Limited, Ranga Reddy Circle, Hyderabad

.....RESPONDENTS

The Court, at the stage of admission, made the following:

Oral order:-

The petitioner is a small scale industrial unit running on a partnership basis engaged in the business as 'M/s Narasingi Roller Flour Mills', established in the year 1983. It obtained a High Tension power supply from the erstwhile Andhra Pradesh State Electricity Board. For

certain commercial reasons, the unit became sick and the power supply was disconnected on 30-12-1988. According to the petitioner, the State Government in G.O.Ms.No. 359 Industries and Commerce (IP) Department, dated 25-06-2001 (for short G.O.Ms.No. 359) granted certain incentives for revival of sick industries. *Inter alia*, such incentives included deferment of payment of arrears of purchase tax, sales tax and interest towards non-payment of sales tax for two years from the date of grant of revival package. Insofar as the energy supply is concerned, the Government Order stipulated that the Andhra Pradesh Transco would waive the minimum charges during the closure period, without however any refund of the minimum charge, if already paid; and where power has been disconnected for non-payment of bills or agreement being terminated ex-parte, no fresh security deposit would be insisted upon.

Based on the above incentives provided by the Government, the petitioner applied to the 2nd respondent for revival of the industry. There was a meeting between officials of A.P. Transco, the petitioner and other stake-holders wherein certain decisions were taken. Insofar as the dues payable to the respondents-corporation is concerned, however, the respondents, the Central Power Distribution Company of A.P., addressed the petitioner by a communication wherein in reference Lr.No. CGM(Coml.)/SE©/DE©/ADE-1/F.HT/D.No. 1026/05 dated 16-04-2005 granting instalments in respect of C.C. charges, minimum charges and consumption deposit, while stipulating that the petitioner is required to pay additional charges for belated payment of C.C. charges dues upto the date of disconnection; while agreeing that there would be no additional charges for belated payment of minimum charges of four months period. According to the petitioner, pursuant to the above proceedings by the Central Power Distribution Company Ltd., the petitioner tendered an amount of Rs. 1,06,317-00 by way of demand draft dated 29-03-2005 in favour of the Senior Accounts Officer, Operation, R.R. Circle, A.P. Transco, Hyderabad towards fulfillment of the 1st instalment as stipulated in the proceedings dated 16-04-2005,

but the respondents have reneged on the offer and have failed to re-connect the power supply to the petitioner. This is the substantive grievance in the writ petition.

Sri Sriramulu Reddy, learned standing counsel for the respondents would submit that the respondents-Corporation is not bound by the orders of the Government in G.O.Ms.No. 359 as qua Section 65 of the Electricity Act, 2003 (Act No. 36 of 2003) (for short 'the Act'), no order of the government granting incentives that imposes a fiscal burden on the power distribution company is enforceable, unless the appropriate government pays the proportionate amount to such distribution company as would off set the out go by the distribution company on the ground of such incentives. As G.O.Ms.No.359 does not incorporate and tender the payment, the respondents-Corporation would not recognize the government order in view of the provisions of the Electricity Act, 2003 (Act No.36 of 2003) (for short the 'Act'), is the case of the respondent-company, that appears *prima facie* sustainable. Faced with this piquant situation, the petitioner is agreeable to pay the instalments as per the proceedings of the respondents dated 16-04-2005.

There is some dispute as to whether the demand draft taken by the petitioner on 29-03-2005 constitutes, in full, the instalments component directed in the proceedings dated 16-04-2005.

In the circumstances above, the writ petition is disposed of granting liberty to the petitioner to tender a fresh demand draft for the amount of instalments that the petitioner is facilitated *qua* the proceedings of the respondents-corporation dated 16-04-2005. On the petitioner tendering the instalment amount, as per the proceeding dated 16-04-2005, the respondents shall forthwith restore the power supply to the petitioner. The respondents are at liberty to take appropriate steps and immediately, should the petitioner default on any of the instalments in accordance with the schedule.

Having regard to the fact that the time schedule fixed in the proceedings dated 16-04-2005 of the respondents is not now

operative, the respondents are directed to forthwith fix a fresh schedule for payment of instalments and at any rate within a period of one week from the date of receipt of a copy of this order and communicate the same to the petitioner; and on receipt of such re-schedule of instalments from the respondents-corporation, the petitioner is at liberty to tender the amount representing the first of such instalment as per the directions above. No costs.

GODA RAGHURAM, J

Date: 10-08-2005

Pvks/*

Nb:- Furnish c.c. in three days.

B/o pvks/*